

LAFFITTE & CO., OF PARIS.

JULY 21, 1842.

Laid on the table.

Mr. CUSHING, from the Committee on Foreign Affairs, made the following

REPORT :

The Committee on Foreign Affairs, to whom was referred a message from the President of the United States, transmitting a claim of the trustees of the former house of Laffitte & Co., of Paris, have considered the same, and report :

It appears, from a memorial addressed to the President by the said trustees, that, prior to the year 1818, the banking house of Laffitte & Co. had made considerable advances to John Carrere, a citizen of the United States doing business at Baltimore, on which there was, in 1818, the sum of 207,290 francs due to the said Laffitte & Co.

In consideration of this debt, the said Carrere, on the 24th November, 1819, assigned to Laffitte & Co., amongst other things, a claim belonging to him against the French Government, for ninety-nine casks of sugar, part of the cargo of the American ship North America, seized by the French at Cuxhaven, in September, 1807, and confiscated by order of the Emperor.

After the conclusion of the convention between France and the United States of the 4th of July, 1831, this claim was presented before the commission appointed in execution of that convention, in the name and behalf of the said Laffitte & Co., and was by that commission rejected, on the ground that, although originally an American claim, it had lost that character by having been assigned to Laffitte & Co., and that thus it became excluded from the benefits of the convention. In this state of facts, the trustees of Laffitte & Co. now prefer the claim as one against the Government of the United States.

The committee have repeatedly had occasion to consider the question whether, after the rejection of a claim by commissions constituted in the United States in the manner of that established under the French convention of 1831, the parties possessing such claim would have any right of reclamation over as against the United States.

In such cases, it has been the opinion of the committee—

That no responsibility devolved upon the United States by reason of any error of judgment on the part of such commissioners ;

That, as a general rule, a decision made by such commissioners, upon any matter within their jurisdiction, is final and conclusive as respects all parties ;

That Congress has no power to examine or supervise any such decision, and cannot entertain the question whether any such decision had been erroneous or not ;

And that, even in a case of admitted error on the part of the commissioners, the relation of the United States to the commission and to the parties aggrieved is the same as in the case of the decisions of other judicial tribunals, whose errors in any litigious matter lawfully submitted to them cannot be deemed to confer on the party aggrieved any right to be indemnified by the Government.

The committee annex the report in the leading case, that of Robert Gilmore.

In this view of the subject, it is not material for the committee to inquire whether the claim of Laffitte & Co. was or was not rightfully rejected by the above-named commission. That commission was the tribunal provided for in the convention by the French and American Governments, which the parties accepted by presenting their claims before it for adjudication, and in conformity with whose decisions the indemnity paid by France to the United States was distributed by the United States, in final execution of the convention.

The committee, therefore, do not enter into the question discussed in the memorial, whether the foreign assignee of Carrere was entitled, under the convention, to all the rights of nationality in this case which may have appertained to the original claim.

In an additional memoir on this subject, recently transmitted by Laffitte & Co., the principles as above set forth, and upon which the committee have proceeded in other cases, seem to be admitted as just and true in their application to those cases.

But, in that additional memoir, it is alleged that the claim of Laffitte & Co. is to be distinguished from the cases referred to, by reason of the fact that, as Frenchmen, they complain of an injury done to them by the commission, in contravention of the law of nations, and that thus the question assumes "a political character of a nature to be entitled to be treated diplomatically between the two Governments."

This new view of the subject is one which excludes the case from the present consideration of Congress, and brings it, of necessity, within the jurisdiction of the President, as a question of negotiation between him and the King of the French.

Wherefore, the committee ask to be discharged from the further consideration of the subject.

[TWENTY-FOURTH CONGRESS, SECOND SESSION.—REP. No. 299.]

MARCH 1, 1837.

Read, and laid upon the table.

Mr. CUSHING, from the Committee on Foreign Affairs, made the following report :

The Committee on Foreign Affairs, to which was referred the petition of Robert Gilmore and others, report :

The petitioners represent that they were interested in the American ship *Aurora*, or cargo, captured in 1808 by a French privateer, and condemned in virtue of the imperial decree of the 17th of December, commonly called the Milan decree.

The petitioners presented their claim to the board of commissioners appointed in execution of the convention between the United States and France, of the 4th of July, 1831, and the claim was by said commissioners considered and rejected.

The petitioners allege that the commissioners erred in judgment on the questions of law or of fact involved in the claim; and they "appeal" to Congress "for redress."

They do not suggest any specific mode of redress, whether by the immediate action of Congress as an appellate tribunal, or by constituting a new commission to revise the doings of that whose functions have expired. Nor do they expressly pretend that Congress should provide the indemnity, of which they have been deprived by the decision of the commissioners.

This application belongs to a new class of cases, of which several have been referred to the Committee on Foreign Affairs the present session. There are a great number of persons situated precisely as are these petitioners. A vast amount of claims were rejected on various grounds, as well by the commissioners under the convention with France as by the commissioners for the execution of other treaties of indemnity negotiated by the United States. In some cases, the captures or seizures were deemed by the commissioners to have been for good and lawful cause; others were held not to be within the benefit of the particular treaty; in others, the parties did not produce evidence to the satisfaction of the board. It is possible, not to say probable, that the commissioners, amid the immense multiplicity of questions before them, may have erred occasionally in their construction of law or their consideration of facts. If Congress may or ought to interpose in behalf of one claimant aggrieved by such error, the right and the obligation are equal in regard to all. Under these circumstances, the committee have considered it to be their duty to weigh carefully the general subject of this petition.

The convention of the 4th of July, 1831, provides that the Government of the United States shall distribute the indemnity to be paid by France, among those entitled, in the manner and according to the rules which the United States shall determine.

The act of Congress of the 13th of July, 1832, provides for the appointment of three commissioners, whose duty it shall be to receive and examine all claims which may be presented to them under the convention, according to the provisions of said convention and the principles of justice, equity, and the law of nations. The commissioners are to report to the Secretary of State a list of the several awards made by them; and the Secretary of the Treasury is to distribute, in ratable proportions among the persons in whose favor the awards shall have been made, such moneys as may have been received into the Treasury in virtue of the convention.

There is no tribunal referred to by the act for revising the decisions of the commissioners, nor is any such revision contemplated by it; for the indemnity fund is to be distributed in conformity with their awards.

In point of fact, the commissioners have presented their list of awards to the Secretary of State; certificates of claim have been granted thereupon, to the persons, and in the proportions, prescribed in said list; and most of those persons have actually received twenty per cent. of the sum on the face of said certificates, in part discharge thereof, so far as the means of payment have been realized by the United States.

Your committee are of opinion that the decision of the commissioners is, and ought to be, final, in respect to all the matters within their jurisdiction.

Congress did not provide for the organization of any distinct appellate tribunal, or for the revision of the proceedings of the commissioners by any of the existing courts, or other public functionaries, or by Congress.

This board of commissioners being an extraordinary tribunal, constituted in pursuance of the law of nations, and in execution of a treaty, is wholly independent of the clauses of the Constitution which define the powers of the judicial courts, and the rights of the citizen, in questions of common law.

In general, and apart from the provisions of the Constitution, it is a mere question of expediency whether a party shall have the right of appeal from the tribunal which exercises original cognizance of his case. Judicial proceedings must stop somewhere. There cannot fail to be a tribunal, organize the courts as you will, which may in the last resort refuse redress to a party, and refuse it wrongfully. Such a possibility is of the imperfection inseparable from human institutions.

The peculiar nature of the subject dictated the character of the proceedings. A common fund was to be divided between a great body of claimants. To indulge any one party, or class of parties, with the privilege of appeal to some other tribunal, for the re-examination of an award against them, would have been to delay and defeat all the other parties. Experience, and the usage of nations, recommended the appointment of a commission to hear and decide definitively within a limited time.

There is no ground whatever, in law or reason, to call on Congress itself to assume the functions of a court of appeal, to revise the doings of the commissioners. If Congress may be held to reverse a decision rejecting a claim, it may, with equal cause, be held to look into their proceedings for the purpose of reapportioning a claim among part owners, or of augmenting the amount awarded to individual claimants.

In such event, who is to provide money for the relief of the claimant, in whose favor a case adjudged by the commissioners is revised? Shall it come from the Treasury of the United States? The appropriate fund is used up, or stands pledged to the satisfaction of the certificates issued. Unless the Government is to pay the claim in a rejected case, which it revises, there would be no practical result to be reached by such revisal.

Your committee cannot yield any countenance to a procedure not reasonable in itself, and which, in its consequences, while it would convert Congress into a mere court of law, would subject the Treasury to a large class of novel claims, amounting to indefinite millions in the aggregate sum.

The Government exerted itself to obtain from France a general indemnity for the injuries embraced in the convention. It constituted a tribunal to examine the several claims, and to decide on their validity, in the method best adapted to do justice to all parties. It has proceeded to pay over the indemnity, of which it is the mere stakeholder, as between France and the parties injured by her acts. In so doing, the United States has discharged its duty towards its own citizens.

The petitioners submitted their claim to the tribunal appointed to examine them, and failed. The United States never guaranteed that they should succeed in making out a case, any more than it guarantees the success of a party before the ordinary courts of law. In the one alternative, as in the

other, if the claim of a party be wrongfully rejected, it is his misfortune, which the Government of the United States is under no obligation whatever to repair. Its parental duty towards the citizen does not reach to that length. It is bound to organize proper tribunals, to place the administration of its justice in fit hands, and to punish the administrators of it for any malfeasance in office. But it is not bound to indemnify a plaintiff who brings an action, and fails to recover, by reason of some error of judgment on the part either of the court or of the jury which tries his cause. Nor is it any more bound, in the present instance, to make good to the petitioners the loss they may have sustained by any real or supposed error of the commissioners.

For these considerations, and without undertaking to rejudge the questions of law involved in this particular claim, as presented to said commissioners, the committee are of opinion that the petitioners are not entitled to any relief in the premises on the part of Congress.

Message from the President of the United States, transmitting a claim of the trustees of the former house of Laffitte & Co., of Paris.

To the House of Representatives of the United States :

I transmit a copy and translation of a letter from Mr. Pontois, the minister plenipotentiary from France to this Government, addressed to the Secretary of State, and communicating a memorial to me from the trustees of the former house of Laffitte & Co., of Paris, complaining of the rejection of a claim preferred, in behalf of that house, before the commissioners under the convention with France of the 4th of July, 1831, and asking redress.

The commission created by the act for carrying that convention into effect has expired. The fund provided by it has been distributed among those whose claims were admitted. The Executive has no power over the subject. If the memorialists are entitled to relief, it can be granted by Congress alone, to whom, in compliance with the request of the trustees, that question is now submitted for decision.

M. VAN BUREN.

WASHINGTON, March, 1838.

Mr. Pontois to Mr. Forsyth.

LEGATION DE FRANCE AUX ETATS UNIS,

Washington, le 27 Janvier, de 1838.

MONSIEUR : J'ai l'honneur de vous transmettre, ci-joint, un mémoire adressé au Président des Etats Unis, par les liquidateurs de l'ancienne maison Laffitte et Cie. de Paris, au sujet d'une décision qui a rejeté une réclamation formée, au nom de cette maison, sur les fonds d'indemnité de 25 millions, payé aux Etats Unis, en exécution du traité du 4 Juillet, 1831.

Vous verrez, d'après l'exposé des faits contenu dans ce mémoire, que la commission chargée de la répartition des 25 millions s'est crue autorisée à repousser la créance qui avait été cédée à la maison Laffitte, en paiement d'une ancienne dette de commerce, sous le prétexte qu'elle avait cessé d'être propriété Americaine, quoique d'ailleurs elle fut reconnue légitime. Ce rejet, ainsi que les réclamans l'établissent, est contraire aux

plus simples notions du droit, aux principes les plus constans en fait de liquidations internationales, et enfin à l'esprit évident du traité du 4 Juillet. Je crois devoir mettre d'autant plus d'empressement à recommander cette réclamation à la justice du Gouvernement Américain, qu'il ne s'agit point ici d'une de ces transactions aléatoires, indignes de l'appui d'un Gouvernement, mais d'une transaction patente, également honorable pour le débiteur qui a cherché à se libérer, et pour le créancier qui a accepté, sans défiance, une valeur encore incertaine.

J'espère, monsieur, que le cabinet de Washington accueillera les réclamations de la maison Laffitte avec cet esprit d'équité et de bienveillance qu'il est sûr, de son côté, de rencontrer toujours dans le Gouvernement du Roi; et je saisis cette occasion pour vous renouveler l'assurance de la haute considération avec laquelle j'ai l'honneur d'être,

Votre très humble et très obeissant serviteur,

ED. PONTOIS.

Les liquidateurs de la maison de banque Jaques Laffitte & Cie., à Son Excellence le Président des Etats Unis d'Amérique.

PARIS, le 10, Août, 1837.

MONSIEUR: Notre maison avait fait des avances considérables à M. John Carrère, citoyen des Etats Unis, négociant à Baltimore.

En l'année 1818, il nous devait un solde de 207,290 francs; et, comme il était dans l'impuissance de se libérer, notre représentant, feu M. Stephen Girard, de Philadelphie, consentit à recevoir de lui les valeurs dont il pouvait disposer.

Entre autres valeurs, toutes insuffisantes, et plus ou moins incertaines se trouvait une réclamation contre le Gouvernement Français, pour quatre-vingt-dix-neuf barriques de sucre, chargées sur le navire Américain, le *North America*, Capitaine Tucker, saisies par les douanes Françaises de Cuxhaven, en Septembre, 1807, et arbitrairement confisquées par une décision impériale. M. John Carrère nous transporta cette réclamation, par un acte authentique et régulier, du 24 Novembre, 1819.

Après avoir inutilement réclamé contre cette décision auprès du Gouvernement Français, nous dûmes, *comme exerçant un droit Américain*, attendre le traité qui devait statuer sur les réclamations des citoyens des Etats Unis.

Cette mesure ayant été effectuée par la convention du 4 Juillet, 1831, nous envoyâmes à Washington nos pouvoirs et les documens nécessaires.

Un rapport général et définitif de la commission Américaine, en date du 31 Decembre, 1835, nous a appris que les autres intéressés au *North America* ont été liquidés pour la somme de \$13,204 14, mais que notre réclamation particulière avait été rejetée.

Nous ne pouvions pas comprendre comment, dans une réclamation collective, fondée sur des preuves communes et évidente, la nôtre seule avait été rejetée, lorsque nous trouvâmes l'explication de ce fait, dans une brochure publiée par l'un des commissaires, M. John K. Kane.

On voit, à la page 21 de cette brochure, que la commission Américaine avait reconnu la loyauté et la légitimité de notre réclamation; mais qu'elle l'avait rejetée pour l'unique motif, *qu'elle avait perdu son caractère de réclamation Américaine*, par le transport que M. John Carrère nous en avait fait.

C'est contre cette décision que nous avons l'honneur d'adresser la présente réclamation à votre excellence.

Nous commençons par faire observer que notre réclamation est *recevable*; et que, quelque péremptoire et définitive que puisse être la décision de la commission Américaine, elle ne peut pas nous être opposée.

En effet on conçoit très bien que, lorsque autorité suprême d'un pays a décidé, le *national*, quelque injuste ou absurde que soit la décision, soit forcé de s'y soumettre; par cette raison, toute simple, que les loix qui le régissent ne lui offrent aucun moyen de réparation.

Mais il n'en est plus ainsi lorsque c'est un *étranger* qui se trouve lésé par la décision absurde ou injuste; à son égard, le seul code admissible c'est le droit naturel et des gens; et ce code il est toujours recevable à l'invoquer avec l'assistance et la protection de son Gouvernement.

C'est ainsi que nous agissons aujourd'hui; et puisque nous sommes *recevables* à réclamer, il ne nous reste qu'à prouver que nous y sommes *fondés*.

A cet égard nous soutenons, avec confiance, que la décision qui a rejeté notre réclamation est contraire du droit commun, au droit spécial des Etats Unis, et au droit des gens, tel qu'il a été consacré par l'usage et par tous les traités.

1. D'après le droit civil, commun à toutes les nations, le transport d'une créance n'opère aucune *novation* dans son essence ou dans sa nature. Par cela même, que le *cessionnaire* ne peut avoir d'autres droits que ceux de son *cedant*, la créance transportée ne peut jamais perdre son caractère et sa *nationalité* originaires. C'est comme conséquence de ce principe, que dans les pays où un étranger ne peut intenter aucune action *contre un autre étranger*, le créancier tenterait vainement de transporter sa créance à un citoyen ou sujet du pays où il voudrait intenter l'action contre son débiteur. Ce cessionnaire, quoique appartenant au pays, serait repoussée par les tribunaux, en vertu de ce principe, *que le transport ne peut pas changer la nationalité originaire de la créance*.

2. Ce droit civil, commun à toutes les nations, a tellement été consacré par le droit civil spécial de l'Angleterre et des Etats Unis, que, dans ces deux pays, on ne fait jamais un transport de créance, sans y insérer la *procuration du cedant au cessionnaire*; par ce motif, que l'essence et le caractère de la créance étant *immuables*, le cessionnaire ne pouvant avoir d'autres droits que ceux de son cedant, c'est toujours par *représentation de la personne de celui-ci*, qu'il est censé agir. Il résulte de là, que si nous n'avions pas agi avec la loyauté et la franchise que la commission Américaine a louées, nous aurions pu présenter notre réclamation *au nom de M. John Carrère*; auquel cas, elle aurait été immanquablement admise.

3. Pour ce qui est du droit des gens, tel qu'il a été consacré par l'usage et les traités, nous croyons pouvoir affirmer que toutes les fois qu'il s'est agi, de nation à nation, d'accorder des indemnités, il a été convenu et pratiqué que le Gouvernement qui doit et accorde les indemnités aux citoyens ou sujets de l'autre Gouvernement, n'a égard quant à la *nationalité* qu'à l'*origine* de la créance. Nous citerons à ce sujet, ce qui fut expliqué entre la France et l'Espagne, le 30 Avril, 1822, au sujet des indemnités réciproques, stipulées entre les deux Gouvernements. Cette explication fut donnée en ces termes: "Pour prévenir les difficultés qui se sont élevées lors de l'exécution de la convention du 25 Avril, 1818, sur le *paiement de créances qui ont cessé d'appartenir à leurs citulaires primitifs*, il est

bien convenu que ce sera l'origine de la créance, et non la qualité de celui qui en sera porteur, qui déterminera de quelle manière, et par quel Gouvernement, elle devra être payée, sans qu'on puisse regarder le transfert qui en aurait été, ou qui pourrait en être fait, comme un motif qui pourrait en faire refuser la liquidation et le paiement."

Voilà les droit des gens, tel qu'il a été consacré par les traités; et pourtant, c'est l'inverse que la commission Américaine de liquidation a décidée, en déclarant que la créance Américaine de M. John Carrère *avait perdu sa nationalité*, par le transfert qu'il nous en avait fait.

Nous devons ajouter que les principes que nous venons d'invoquer ont reçu la sanction de l'un des plus habiles jurisconsultes des Etats Unis, Feu M. Livingston, alors ministre à Paris, ayant été consulté à ce sujet, par M. Delagrangé, notre conseil, lui déclara que notre créance devant être admise, *comme si elle était présentée par M. John Carrère lui-même.*

Nous devons donc attendre de la justice du Gouvernement des Etats Unis, qu'il nous payera la somme que la commission nous aurait allouée, si elle n'eut pas commis l'erreur de regarder notre créance comme inadmissible.

Il sera, sans doute, facile de trouver les titres et documens que nous avons produits dans les archives de la commission.

Dans le cas où votre excellence jugerait que notre réclamation rentre dans les attributions de la Législature, nous la supplions, attendu la distance où nous nous trouvons, de considérer la présente comme si elle était adressée au Congrès, et de la lui transmettre aussitôt que sa session sera commencée.

Nous prions votre excellence d'agréer l'hommage de notre profond respect.

Les liquidateurs de Jaques Laffitte & Cie.

SANSON DAVILLIER.

[Another name signed here, but illegible.]

Translation of a note from the French Minister Plenipotentiary, enclosing a memorial from the trustees of the house of Laffitte, of Paris.

LEGATION OF FRANCE IN THE UNITED STATES,

Washington, January 27, 1838.

SIR: I have the honor to send you, herewith, a memorial addressed to the President of the United States, by the trustees (*liquidateurs*) of the former house of Laffitte & Co., of Paris, on the subject of a decision, by which a claim preferred in behalf of that house to a portion of the twenty-five millions of francs paid to the United States in execution of the treaty of July 4, 1831, has been rejected.

From the exposition of the facts contained in this memorial, you will see, sir, that the commission charged with the distribution of the twenty-five millions of francs considered itself authorized to reject the claim which had been ceded to the house of Laffitte & Co., in payment of an old commercial debt, on the pretext that it had ceased to be American property, although it was acknowledged to be legitimate in other respects.

This rejection, as the claimants show, is contrary to the most simple no-

tions of law, to the most established principles of international liquidations; and, finally, to the evident spirit of the treaty of July 4. I consider it my duty to urge and recommend this claim to the sense of justice of the American Government, the more, as this is not one of those *aleatoires* (transactions) unworthy of the assistance of a Government, but a plain and open affair, equally honorable to the debtor, who has in this manner endeavored to relieve himself from an obligation, as to the creditor, who has accepted with confidence a consideration of uncertain value.

I hope, sir, that the Cabinet of Washington will receive this claim, presented by the house of Laffitte, with the same spirit of equity and good feeling which may always be found on the part of the King's Government; and I embrace this opportunity to repeat to you the assurance of the high consideration with which I have the honor to be, &c.

ED. PONTOIS.

Translation of a memorial addressed to the President of the United States, by the trustees of the house of Laffitte & Co., of Paris.

PARIS, August 10, 1837.

The trustees (liquidateurs) of the banking-house of Jacques Laffitte and Company to His Excellency the President of the United States of America:

SIR: Our house had advanced considerable sums to Mr. John Carrere, a citizen of the United States, and a merchant of Baltimore.

In the year 1818 he owed us a balance of 207,290 francs, on account; and, as he was then unable to discharge the debt, our representative, the late Stephen Girard, of Philadelphia, consented to receive from him such property as he could dispose of.

Among other property, all of which was insufficient, and more or less uncertain, was a claim against the French Government, on account of ninety-nine barrels of sugar, laden on board the American ship North America, Captain Tucker, which was seized by the French custom-house at Cuxhaven, in September, 1807, and arbitrarily confiscated by an imperial decision. This claim was made over to us by Mr. John Carrere, in a deed regularly and duly authenticated, dated November 24, 1819.

Having in vain protested against the said imperial decision, and claimed restitution from the French Government, we had only to wait until a definitive treaty could be made on the subject of the claims of citizens of the United States. This measure having been at length effected by the convention of July 4, 1831, we sent to Washington our power of attorney, and the other necessary documents.

From a definitive and general report of the American commission, dated December 31, 1835, we learned that the sum of \$13,204 14 had been allowed to the other persons interested in the North America, but that our own particular claim had been rejected.

We could not understand how our portion of a collective claim, founded on proofs common and evident, had alone been rejected, until we found the

matter explained in a pamphlet published by Mr. John K. Kane, one of the commissioners.

At the 21st page of this pamphlet it will be seen that the American commission had admitted the fairness and the legitimacy of our claim, but but that it had been rejected from the sole reason *that it had lost its character of an American claim*, by having been made over to us by Mr. John Carrere.

It is against this decision that we have the honor to address to your excellency the present protest and petition.

We begin by endeavoring to establish that our claim is *receivable*; and that the decision of the American commission, however peremptory and definitive it may be, cannot be made to bar it.

It may, indeed, be easily conceived, that when the supreme authority of a country has decided, the *citizen or subject* of that country is bound to submit, however unjust or absurd may be the decision, from the simple reason that he has no means of redress from the laws by which he is governed. This, however, is not the case with regard to a foreigner, who suffers from the absurd or unjust decision; the only code which applies with regard to him is the law of nature and nations; and to this code he may always appeal, with the assistance and protection of his Government. This we are now doing; and, if it be admitted that *we may be allowed to put in our claim*, we have only to prove that it is *well founded*.

With this view, we maintain with confidence that the decision by which our claim has been thrown out is contrary to the common principles of law, to the special law of the United States, and to the law of nations, as consecrated by usage and by treaties.

1st. According to the civil law, common to all nations, the transfer of a claim operates no change in its essence or in its nature, from the very fact that the person to whom it is transferred can have no rights other than those possessed by him who transferred it; the claim can never, by transfer, lose its original and national character. As a consequence of this principle, in countries in which a foreigner cannot bring an action against another foreigner, the creditor would in vain endeavor to transfer his claim to a citizen or subject of the country in which he wished to bring an action against his debtor, as the person to whom it would be ceded, even though belonging to the country, would be repulsed by the courts, in virtue of the principle that the transfer cannot change the original and national character of the claim.

2d. This civil law, common to all nations, has been adopted into the special civil law of England and the United States to such an extent that in both these countries a transfer of a claim is never made without the conveyance of the right of the person (*procurator*) transferring to the person to whom the transfer is made being inserted in the deed. From this circumstance, that the essence and character of the claim is *unchangeable*, the person to whom it is transferred can have no other rights than the transferer, and the former is supposed always to act *as the representative of the latter*. Hence it follows, that if we had not acted with that honesty and frankness which has been praised by the American commission, we might have presented our claim *in the name of Mr. John Carrere*, in which case it would infallibly have been admitted.

3d. With respect to national law, as established by usage and treaties, we venture to affirm, that in all cases in which indemnification has been

allowed by one nation to another, it has been agreed and practised that the Government owing and allowing indemnification to the subjects or citizens of the other Government takes into consideration only the national character and the origin of the claim.

We will adduce in support of this point the explanation mutually given by France and Spain, on the 30th of April, 1822, with regard to the reciprocal indemnifications stipulated between the two Governments. This explanation was given in these terms:

"In order to avoid the difficulties which arose at the period of the execution of the convention of April 25, 1818, with regard to the payment of claims which have ceased to belong to their original holders, it is well understood that the origin of the claim, and not the quality of the holder, shall be regarded in determining how and by which Government it is to be paid; and that no transfer which may have been made of it is to be regarded as ground for refusing the settlement of it."

Such is the law of nations, as fixed by treaties; and the American commission has acted in direct contradiction to it, in deciding that the American claim of Mr. John Carrere has lost its national character by the transfer which he has made of it to us.

We must add, that the principles which we have just cited have received the sanction of one of the most skilful legal counsellors of the United States. The late Mr. Livingston, when minister at Paris, having been consulted by Mr. Delagrangé, our counsel, declared to him that our claim should be admitted, just as if it had been presented by Mr. John Carrere himself.

We have therefore reason to expect, from the justice of the Government of the United States, that it will pay us the sum which the commission would have allowed us, if it had not erroneously regarded our claim as inadmissible.

It will, doubtless, be easy to find the titles and documents which we produced, among the archives of the commission.

In case your excellency should consider our claim as coming within the attributes of the Legislature, we pray that, taking into consideration our distance from you, you will receive the present as if it had been addressed to Congress, and lay it before that body as soon as its session begins.

We request your excellency to accept the assurances of our profound respect.

The trustees of the house of Laffite & Co.

SANSON DAVILLIER.

[Another name signed here, but illegible.]

DEPARTMENT OF STATE,

Washington, May 10, 1842.

SIR: Referring to the several communications heretofore made to the House of Representatives, by the President of the United States, in regard to certain applications preferred by the French minister here in behalf of Captain Beziers, and of the former house of Laffite & Co., of Paris; which were respectively referred to the Committee on Foreign Affairs in March, 1838, I have the honor to submit to you the accompany-

ing correspondence, and respectfully to invite the attention of the committee to the subjects to which it relates.

I am, sir, with great regard, your obedient servant,

DANIEL WEBSTER.

HON. JOHN Q. ADAMS,

Ch. Com. Foreign Affairs, H. R.

M. de Bacourt to Mr. Webster.

[TRANSLATION.]

WASHINGTON, May 17, 1841.

SIR: On the 27th of January, 1838, the legation of France at Washington transmitted to the Department of State a memorial, addressed by the trustees (*liquidateurs*) of the former house of Laffitte & Co., of Paris, on the subject of a decision, by which a claim, advanced in the name of that house, to a portion of the twenty-five millions paid to the United States as indemnification, by the terms of the treaty of July 4, 1831, was rejected.

On the 12th of February following, your predecessor acknowledged the receipt of this memorial, and stated that the President, having no power over the decisions of the commission charged with the distribution of the sum of twenty five millions, had given orders for the presentation of the claim of the former house of Laffitte & Co. to Congress, which could alone modify the decisions of the commission.

On the 2d of January, 1839, the legation of France thought proper to recall to the Department of State the engagement to present this claim to Congress, which had been made by Mr. Forsyth; and, on the 8th of January following, the Secretary of State, in his answer to my predecessor, informed him that the claim of Laffitte had been actually laid before the House of Representatives in March, 1838, but that it had not been examined by that body. Mr. Forsyth added the assurance that, so soon as a definitive decision had been taken on the subject by Congress, he would not fail to communicate it to the legation of France.

Since that period, that is to say, for more than two years, no further information on the subject has been communicated by the Government of the United States; and I therefore consider it my duty, sir, to recall to your mind the claim on the part of the house of Laffitte & Co.

I have received orders from my Government to solicit from the justice of the United States the redress of the grievance of which the house of Laffitte complains; and I doubt not, sir, that, after an attentive examination of the questions relative to that business, you will be disposed to further the prompt settlement of it in a just and equitable manner.

Accept, &c.

AD. DE BACOURT.

HON. DANIEL WEBSTER, *Secretary of State.*

M. de Bacourt to Mr. Webster.

[TRANSLATION.]

WASHINGTON, June 15, 1841.

SIR: Permit me to recall to your attention several matters concerning which I have had the honor to address the Department, and on which I am still awaiting its answer.

* * * * *

In a letter of the 20th of November, 1840, Mr. Forsyth likewise promised me that the President would submit to Congress the petition of Captain Bezers, who saved the crew of an American ship in the bay of Cadiz, in 1825, and that this petition would be urgently recommended to Congress. I am also without information as to what has been done in this case, which concerns a man burdened with a numerous family, and reduced to misery.

Finally, sir, on the 17th of May, I had the honor to write to you on the subject of a claim of the former house of Laffitte & Co., of Paris, which had been transmitted to me by my Government, with an invitation to solicit an answer from you.

I should be obliged to you, sir, to give me the information which I solicit upon these three cases.

Accept, sir, &c.

AD. DE BACOURT.

Hon. DANIEL WEBSTER, *Secretary of State.**Mr. Webster to M. de Bacourt.*

DEPARTMENT OF STATE,

Washington, June 23, 1841.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, asking attention to several communications previously addressed by you to this Department, and to which you awaited answers.

Of the subjects mentioned in your last note, two, viz: the application in behalf of Captain Bezers, and the claim preferred on the part of the late firm of Laffitte & Co., of Paris, were submitted to the House of Representatives of the United States, as you are aware, in the month of March, 1838, by the President of the United States; an act which sufficiently marked his favorable dispositions respecting them. The papers relating to these claims were received by that body, and referred to the Committee on Foreign Affairs; which does not, however, appear to have reported on either. When the former application was renewed by your letter of the 7th of November last, you were informed by my predecessor, in his note of the 20th of the same month, not, as you suppose, that the President would submit and earnestly recommend to Congress the claim of Captain Bezers, but that all that could be properly done with regard to it would be the transmission of your letter to the committee charged with the subject. This was accordingly done (17th December) soon after the commencement of the ensuing session of Congress; and it is proposed, when the proper time shall arrive, to give your letter of the 17th of May last, and also an extract from that of the 15th instant, the same direction.

Whatever may be the President's regret that Congress has not hereto-

fore passed upon these claims, or however strong his desire that they may receive its early consideration, it is not deemed proper that any further step should now be taken on his part, with the view of hastening the decision of Congress upon them at this time. It is to be hoped, however, that it may dispose of these subjects when it shall next assemble for the ordinary despatch of business; and in that event, I will lose no time in communicating to you the result.

I avail myself, &c.

DANIEL WEBSTER

M. DE BACOURT, &c.

M. de Bacourt to Mr. Webster.

[TRANSLATION.]

LEGATION OF FRANCE,

Washington, May 4, 1842.

SIR: In a letter which you did me the honor to write to me on the 23d of June last, in reply to one which I had addressed to you on the 17th of May, on the subject of the claim of the trustees of the former house of Laffitte & Co., of Paris, while informing me that, to your regret, Congress had not, until then, taken any determination on this claim, you were kind enough to express a hope that this body would be able to take up the question at its following session.

I have received formal orders from the Government of the King to solicit again from the Federal Government the definitive decision of this question; and, in consequence of this order, I have the honor to request you, sir, to take the necessary measures for arriving at that end.

Accept, sir, &c.

AD. DE BACOURT.

Hon. D. WEBSTER,
Secretary of State.

DEPARTMENT OF STATE,

Washington, June 13, 1842.

SIR: I have the honor to transmit to you, herewith, in accordance with the wish of the writer, translations of a letter, dated the 9th instant, received at this Department from the French minister at Washington, and of the accompanying paper to which he refers, relating to the claim of the house of Laffitte & Co., of Paris, on this Government; a subject which is supposed to be still before the Committee on Foreign Affairs of the House of Representatives for consideration.

I am, sir, respectfully, your obedient servant,

DANIEL WEBSTER

Hon. JOHN QUINCY ADAMS,
Chairman Committee on Foreign Affairs, H. R.

Translation of a note from the Envoy, &c., of France.

LEGATION OF FRANCE AT WASHINGTON,

Washington, June 9, 1842.

SIR: You did me the honor to inform me, by your letter of the 11th of May last, that you had, at my request, made a new communication to the president of the Committee of Foreign Affairs of the House of Representatives, on the subject of the claim of the house of Laffitte & Co., of Paris.

I have now to request that you would also transmit to the committee of the House of Representatives the annexed document, which has been addressed to me by the French Government, and in which will be found a refutation of the doctrine according to which the resolution adopted by the committee with regard to the claim of the *American* house of Gilmore & Co., of Baltimore, which seemed to have some resemblance to that of the house of Laffitte, should be applied to the case of the house of Laffitte.

I avail myself of this occasion to renew to you, sir, the assurances of my distinguished consideration.

AD. DE BACOURT.

Hon. DANIEL WEBSTER,

*Secretary of State.**Note in favor of the house of Jacques Laffitte & Co., now in liquidation.*

It appears that the American Government has rejected the claim which Messrs. Jacques Laffitte & Co. addressed on the 10th of August, 1837, to the President of the United States, upon the ground of the supposed analogy between it and the claim of the American house of Gilmore & Co. It will be sufficient to read the petition of Messrs. Jacques Laffitte & Co., of which a view will be here presented, in order to see that no analogy exists between the two cases.

The house of Gilmore & Co. is an American house, established at Baltimore; it asks Congress to decide again upon the *matter of its claim*, which has been completely and definitively decided by the late American board of settlement, instituted at Washington for the execution of the convention of July 4, 1831. It is evident that, whatever may have been the errors, as to fact or as to law, committed by that board, the petition of Messrs. Gilmore & Co. is not receivable.

The case of the house of Laffitte is, on the contrary, the claim of a *French* house, which, although admitted to be most just, and perfectly justified in its essentials, has been rejected by the American commission, only upon the ground that this claim, *American* in principle, had been *denationalized* by the transfer which John Carrere, an American, had made of it to his creditors, Jacques Laffitte & Co. This is the sole ground of the rejection, as set forth in a pamphlet published by Mr. John K. Kane, one of the commissioners, and as easily proved in other ways.

Now, this fact is sufficient to overthrow all comparison between the two claims. It is evident that Messrs. Gilmore & Co., Americans, cannot again have submitted for decision what has been already (whether well or ill) decided, as to the *essence of their demand*, by a commissioner entitled to pronounce definitively, instituted by their own Government. But Messrs. Jacques

Laffitte & Co. are French ; they do not appear before the American Government to support the justice *of the essence of their claim*, as they have no interest in doing so ; the justice of their claim, at bottom, having been acknowledged by the American commission, and decided in favor of the other Americans who owned the other parts of the cargo of the same ship. They appear as Frenchmen, to complain that the commission has set them apart for rejection ; that, contrary to the law of nations, and to precedents cited in their petition, this commission has regarded as an innovation (*novation*) the transfer of the claim made to them by the American, John Carrere ; that it has decided that this claim has *lost its American character* by this transfer, and had become French, and, as such, not admissible to participation in the twenty-five millions (of francs) which France has paid in execution of the convention of July 4, 1831.

Upon these points rests the justice of their claim ; these are the circumstances which give the affair a political character of a nature to entitle it to be treated diplomatically between the two Governments, and which should induce the King's minister to insist that the President should obtain from Congress the appropriation required, to afford to Messrs. Jacques Laffitte & Co. the indemnification which is due to them in justice.

J. LAFFITTE & CO., (*in liquidation*.)

PARIS, *April 12, 1842.*